

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TRACY STOKES,

Petitioner,

v.

Case No. 09C0542

LARRY JENKINS,

Respondent.

ORDER

Pro se petitioner Tracy Stokes, a Wisconsin state prisoner, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 1990 state court conviction. Respondent moves for summary judgment on the ground that the petition is untimely.

The relevant facts are as follows: In 1990, petitioner was convicted of armed robbery based on his no-contest plea. He did not appeal his conviction. In 2006, he moved for post-conviction relief in the Kenosha County Circuit Court. The court denied relief, and petitioner appealed to the state court of appeals. The court of appeals affirmed the denial of relief. Petitioner then sought review in the state supreme court, but that court denied review. In May 2009, petitioner filed a petition for federal habeas corpus.

Under 28 U.S.C. § 2244(d)(1)(A), a state prisoner must file a petition for federal habeas relief within one year of the date his conviction became final. Petitioner's conviction became final in 1991 after the time he had to seek direct review expired. Because this date preceded April 24, 1996, the date that the Anti-Terrorism and Effective Death Penalty Act went into effect, petitioner had one year from April 24, 1996 to seek

habeas relief. However, he did not file his petition until May 2009, about twelve years late. Therefore, his petition is untimely.

Further, petitioner presents no facts suggesting that either statutory or equitable tolling is applicable.

Therefore, for the reasons stated,

IT IS ORDERED that respondent's motion for summary judgment is **GRANTED** and this case is **DISMISSED**.

Dated at Milwaukee, Wisconsin this 18 day of June, 2010.

/s_____
LYNN ADELMAN
District Judge